

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: R. Wright Analyst: Gloria McConnell Bill Number: AB 2004

Related Bills: _____ Telephone: 845-4336 Amended Date: 08/20/98

Attorney: Doug Bramhall

Sponsor: _____

SUBJECT: FTB Collection of Student Aid Commission Outstanding Accounts
Receivable/Additional Notice to Debtor/Limits FTB Collection Remedies

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED 2/18/98 and AMENDED 4/28/98 and 7/02/98 STILL APPLY.

☒ OTHER – See comments below.

SUMMARY OF BILL

Under this bill, before a delinquent student loan could be referred to Franchise Tax Board (FTB) for collection, the Student Aid Commission (commission) would be required to provide certain notices and hearings that generally would delay referral of outstanding student loans to FTB by at least 30 days.

Additionally, under this bill,

- FTB would be required to expressly provide notice to the debtor at the most recent address of record provided by the commission or last address known to the FTB. If the mail is returned as undeliverable or FTB otherwise knows the mail was misdirected, FTB would be required to use reasonable diligence to ascertain the current address of the debtor and provide notice at that address.
- FTB would be required to wait at least 15 days (instead of the current 10 days) after it issues to the debtor notice (containing certain prescribed information written in Spanish and English) and requests payment before it can proceed with collection action.

SUMMARY OF AMENDMENT

The August 20, 1998, amendments generally resolve the Policy Considerations raised in FTB's previous analyses. As amended:

- Collections would not to be returned to the debtor if the debtor did not receive required notice to pay the debt within 15-days to prevent further collection action because due process has been provided elsewhere in the provisions of the bill.
- FTB levies would not be limited to 10% of a debtor's wages if a determination is made that federal law permits a greater percentage. If so determined, FTB, as allowed under current law, would levy on (up to) 25% of a debtor's wages.

Board Position:

☐ S ☐ NA ☐ NP
☐ SA ☐ O ☐ NAR
☒ N ☐ OUA ☐ PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

9/4/98

- FTB levies would not be limited to 25% of the amount in a debtor's account(s) in a depository institution if the account(s) is less than \$2,000. As allowed under current law, FTB would levy on (up to) 100% of the amount in the account(s).

The August 17, 1998, amendments clarify that if collections are returned to the debtor because the debtor establishes by a preponderance of evidence that FTB did not send the debtor the required notice, the FTB may again proceed with the collection of the debt after giving the required notice. Additionally, they make a technical change to the provision that limits the amount that may be levied on depository institution accounts for delinquent student loans.

The July 23, 1998, amendments generally resolve the Implementation Considerations raised in the analysis of the bill as amended July 2, 1998. As amended:

- The hearings FTB is required to hold if, among other things, the debtor claims collection would create a hardship or that FTB has not provided notice as required by law, could be done in an informal process, which is current practice. The hearings would be exempt from Administrative Procedures Act, as are protest hearings of proposed tax deficiencies, jeopardy assessments and other hearing given by the FTB pertaining to collection matters.
- This bill continues current law, which gives the commission, FTB and the Controller discretion to issue regulations as necessary to implement the student loan collection program, instead of requiring that regulations be adopted. Because this bill basically codifies the entire administrative process and provides a high degree of administrative detail, regulations may prove unnecessary to the implementation of this bill.

BACKGROUND

The commission began referring accounts to FTB during July 1997. FTB ended its first fiscal year of collections (July 1, 1997, through June 30, 1998) with approximately 240,000 loans in its inventory and collecting approximately \$14.5 million. The following reflects FTB's collection activities for that period:

FTB activity	issued	paid	payments received
Demands for payments	155,567	26,874	\$5,905,516 ¹
Bank levies	3,226	863	1,089,549
Wage levies	118,137	101,984	7,469,547

FISCAL IMPACT ON STATE BUDGET

Departmental Costs

This bill is not anticipated to significantly affect departmental costs.

Collection Estimate

Based on the discussion below, the collection impact of this proposal is as follows:

¹ This number includes approximately \$1 million that was sent directly to the commission as a result of FTB's activities and presumes that the payment was not the result of a bank or wage levy.

Collection Impact of AB 2004		
(In Millions)		
Fiscal Year Impact		
1998-9	1999-0	2000-1
(\$2.5)	-	-

Collection Estimate Discussion

The collection impact of this bill would depend on the number of referrals and collection activities that would be delayed as a result of additional notices and hearings required by the commission prior to referral of delinquent accounts to FTB.

This estimate is based on the results of FTB's existing Student Aid Collection Program and assumes a one-time two-month delay in referral of accounts to FTB in the first fiscal year of implementation (1998-9), thereby, reducing collections by an estimated \$2.5 million for the period January 1, 1999 to June 30, 1999. After the one-time delay, the program would continue collections with the new timing of the referrals. The approximate two-month delay would be due to (1) the new 30-day notice required by the commission before an account may be referred to FTB (the commission may find it necessary to hold the account for an additional time beyond the 30 days to allow for last-minute payments or telephone calls); (2) additional inquiries relating to requests for and the holding of hearings; and (3) the commission's implementation of other changes required by this bill.